

§ 91.855

§ 91.855 Entry and nonaddition rule.

No person may operate any airplane subject to § 91.801(c) of this subpart to or from an airport in the contiguous United States unless one or more of the following apply:

(a) The airplane complies with Stage 3 noise levels.

(b) The airplane complies with Stage 2 noise levels and was owned by a U.S. person on and since November 5, 1990. Stage 2 airplanes that meet these criteria and are leased to foreign airlines are also subject to the return provisions of paragraph (e) of this section.

(c) The airplane complies with Stage 2 noise levels, is owned by a non-U.S. person, and is the subject of a binding lease to a U.S. person effective before and on September 25, 1991. Any such airplane may be operated for the term of the lease in effect on that date, and any extensions thereof provided for in that lease.

(d) The airplane complies with Stage 2 noise levels and is operated by a foreign air carrier.

(e) The airplane complies with Stage 2 noise levels and is operated by a foreign operator other than for the purpose of foreign air commerce.

(f) The airplane complies with Stage 2 noise levels and—

(1) On November 5, 1990, was owned by:

(i) A corporation, trust, or partnership organized under the laws of the United States or any State (including individual States, territories, possessions, and the District of Columbia);

(ii) An individual who is a citizen of the United States; or

(iii) An entity owned or controlled by a corporation, trust, partnership, or individual described in paragraph (f)(1) (i) or (ii) of this section; and

(2) Enters into the United States not later than 6 months after the expiration of a lease agreement (including any extensions thereof) between an owner described in paragraph (f)(1) of this section and a foreign airline.

(g) The airplane complies with Stage 2 noise levels and was purchased by the importer under a written contract executed before November 5, 1990.

(h) Any Stage 2 airplane described in this section is eligible for operation in

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the contiguous United States only as provided under § 91.865 or 91.867.

[Doc. No. 26433, 56 FR 48658, Sept. 25, 1991; 56 FR 51167, Oct. 10, 1991]

§ 91.857 Stage 2 operations outside of the 48 contiguous United States, and authorization for maintenance.

An operator of a Stage 2 airplane that is operating only between points outside the contiguous United States on or after November 5, 1990, shall—

(a) Include in its operations specifications a statement that such airplane may not be used to provide air transportation to or from any airport in the contiguous United States.

(b) Obtain a special flight authorization to operate that airplane into the contiguous United States for the purpose of maintenance. The special flight authorization must include a statement indicating that this regulation is the basis for the authorization.

[Doc. No. 26433, 56 FR 48658, Sept. 25, 1991, as amended by Amdt. 91–252, 61 FR 66185, Dec. 16, 1996]

§ 91.859 Modification to meet Stage 3 noise levels.

For an airplane subject to § 91.801(c) of this subpart and otherwise prohibited from operation to or from an airport in the contiguous United States by § 91.855, any person may apply for a special flight authorization for that airplane to operate in the contiguous United States for the purpose of obtaining modifications to meet Stage 3 noise levels.

[Doc. No. 26433, 56 FR 48658, Sept. 25, 1991]

§ 91.861 Base level.

(a) *U.S. Operators.* The base level of a U.S. operator is equal to the number of owned or leased Stage 2 airplanes subject to § 91.801(c) of this subpart that were listed on that operator's operations specifications for operations to or from airports in the contiguous United States on any one day selected by the operator during the period January 1, 1990, through July 1, 1991, plus or minus adjustments made pursuant to paragraphs (a) (1) and (2).

(1) The base level of a U.S. operator shall be increased by a number equal to the total of the following—

(i) The number of Stage 2 airplanes returned to service in the United States pursuant to § 91.855(f);

(ii) The number of Stage 2 airplanes purchased pursuant to § 91.855(g); and

(iii) Any U.S. operator base level acquired with a Stage 2 airplane transferred from another person under § 91.863.

(2) The base level of a U.S. operator shall be decreased by the amount of U.S. operator base level transferred with the corresponding number of Stage 2 airplanes to another person under § 91.863.

(b) Foreign air carriers. The base level of a foreign air carrier is equal to the number of owned or leased Stage 2 airplanes that were listed on that carrier's U.S. operations specifications on any one day during the period January 1, 1990, through July 1, 1991, plus or minus any adjustments to the base levels made pursuant to paragraphs (b) (1) and (2).

(1) The base level of a foreign air carrier shall be increased by the amount of foreign air carrier base level acquired with a Stage 2 airplane from another person under § 91.863.

(2) The base level of a foreign air carrier shall be decreased by the amount of foreign air carrier base level transferred with a Stage 2 airplane to another person under § 91.863.

(c) New entrants do not have a base level.

[Doc. No. 26433, 56 FR 48659, Sept. 25, 1991; 56 FR 51167, Oct. 10, 1991]

§ 91.863 Transfers of Stage 2 airplanes with base level.

(a) Stage 2 airplanes may be transferred with or without the corresponding amount of base level. Base level may not be transferred without the corresponding number of Stage 2 airplanes.

(b) No portion of a U.S. operator's base level established under § 91.861(a) may be used for operations by a foreign air carrier. No portion of a foreign air carrier's base level established under § 91.861(b) may be used for operations by a U.S. operator.

(c) Whenever a transfer of Stage 2 airplanes with base level occurs, the transferring and acquiring parties shall, within 10 days, jointly submit

written notification of the transfer to the FAA, Office of Environment and Energy. Such notification shall state:

(1) The names of the transferring and acquiring parties;

(2) The name, address, and telephone number of the individual responsible for submitting the notification on behalf of the transferring and acquiring parties;

(3) The total number of Stage 2 airplanes transferred, listed by airplane type, model, series, and serial number;

(4) The corresponding amount of base level transferred and whether it is U.S. operator or foreign air carrier base level; and

(5) The effective date of the transaction.

(d) If, taken as a whole, a transaction or series of transactions made pursuant to this section does not produce an increase or decrease in the number of Stage 2 airplanes for either the acquiring or transferring operator, such transaction or series of transactions may not be used to establish compliance with the requirements of § 91.865.

[Doc. No. 26433, 56 FR 48659, Sept. 25, 1991]

§ 91.865 Phased compliance for operators with base level.

Except as provided in paragraph (a) of this section, each operator that operates an airplane under part 91, 121, 125, 129, or 135 of this chapter, regardless of the national registry of the airplane, shall comply with paragraph (b) or (d) of this section at each interim compliance date with regard to its subsonic airplane fleet covered by § 91.801(c) of this subpart.

(a) This section does not apply to new entrants covered by § 91.867 or to foreign operators not engaged in foreign air commerce.

(b) Each operator that chooses to comply with this paragraph pursuant to any interim compliance requirement shall reduce the number of Stage 2 airplanes it operates that are eligible for operation in the contiguous United States to a maximum of:

(1) After December 31, 1994, 75 percent of the base level held by the operator;

(2) After December 31, 1996, 50 percent of the base level held by the operator;

(3) After December 31, 1998, 25 percent of the base level held by the operator.